REMARKS

(A) STATUS OF THE APPLICATION

Applicant wishes to thank the Examiner for her explanation of the rejection in the Non-Final Office Action dated July 07, 2006.

(I) DISPOSITION OF CLAIMS

(i) Claims 1-10 are pending in the application.

(ii) Claims 1-10 are rejected under 35 U.S.C. § 102(b).

(II) APPLICANT'S ACTION

(i) Applicant responds to the rejections under 35 U.S.C. § 102(b).

(ii) Applicant has amended Claims 1-10.

(iii) Applicant has canceled Claim 11.

(iv) Applicant has added new Claims 12-19.

(B) RESPONSE TO REJECTION UNDER 35 U.S.C. § 102(B)

U.S. PATENT NOS. 5,901,761 AND 5,697,410 RUTTER, *ET AL.*-CLAIMS 1-11

Claims 1-5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,901,761 Rutter, *et al.* (*hereinafter,* "761 patent") and Claims 6-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,697,410 Rutter, *et al.* (*hereinafter,* "410 patent").

In response, Applicant has amended independent Claim 1 to further define the external slider as having apertures therein proximate an end thereof, and the internal slider as having ports therein in fluid communication with the apertures, and to recite that the internal slider is movable from at least one closed position to an open position. Claim 1 has further been amended to recite that the fitment comprises a plurality of deformable members integrally formed at an end of one of the sliders, the deformable members being biased in the open position so as to return the internal slider to one of the closed positions upon removal of the dispensing connector.

Support for these amendments can be found in particular at paragraphs 39, and 45 to 47 of the present application, as well as in the Figures.

Dependent Claim 2 has been amended to reflect the changes to Claim 1.

Independent Claim 3 has been amended to recite a container comprising a fitment that, like that of amended Claim 1, has an external slider having apertures therein proximate an end thereof and the internal slider as having ports therein in fluid communication with the apertures and an internal slider movable from at least one closed position to an open position and a plurality of deformable members integrally formed at an end of one of the sliders, the deformable members being biased in the open position so as to return the internal slider to one of the closed positions upon removal of the dispensing connector.

Dependent Claims 4 and 5 have been amended to depend on Claim 1 and further have been amended to reflect the amendments to independent Claim 1.

With respect to amended Claim 1 and the claims dependent thereon, Applicant respectfully submits that the 761 patent does not teach or suggest:

- an external slider having apertures therein proximate an end thereof and an internal slider having ports therein in fluid communication with the apertures; or
- deformable members integrally formed at an end of one of the sliders, the deformable members being biased in the open position so as to return the internal slider to a closed position upon removal of the dispensing connector.

The fitment of the present invention functions in a substantially different fashion than that of the 761 patent.

Particularly, in the fitment of the present invention, the valve is opened by the dispensing connector pushing the internal slider toward a base of the external slider. The integral deformable members are biased by the action of opening the valve and

return the internal slider valve to a closed position upon removal of the dispensing connector.

On the other hand, the projections on the external valve of the 761 patent are not biasing means nor do they appear to be deformed. A separate biasing means is required (i.e. leaf spring element 223). Applicant respectfully submits that absent this separate biasing means, the projections of the 761 patent would do nothing to return the valve to a closed position upon removal of the dispensing connector.

The "internal slider" or post of the 761 patent valve is a solid post without ports that extends through the base of an external valve component. The separate biasing member forces the base of the post against the interior surface of the base of the external cylinder to bias the valve to a closed position.

The 761 patent valve has but a single closed position. Sealing is achieved by means of the separate biasing member operating on the post. This biasing member continually biases the valve towards the closed position and therefore is more susceptible to failure. Failure of the biasing member results in leakage through the valve. By contrast, the deformable members of the valve of the present invention are only deformed to a biased position when the internal slider is pushed to the open position. Upon returning to a secondary closed position, a seal is formed by the wedging of a peripheral portion of the internal slider against the side walls of the external slider. Applicant respectfully submits that this seal arrangement means that the valve of the present invention is less susceptible to failure that that of the 761 patent and the 410 patent.

Further, the integral nature of the deformable members simplifies production of the valve of the present invention.

The plurality of deformable members further reduces the probability of valve failure i.e., there is not a single biasing means susceptible to failure, but the biasing effect is the cumulative effect of a plurality of deformable members.

Applicant particularly points to the teaching of the mechanism of action of the 410 patent valve at Col. 7, Lines 24-40, as clearly illustrating the differences between this prior art valve and the valve of the present invention.

Applicant has amended double slider valve Claim 6 to recite that the external slider has apertures proximate an end thereof. This amendment provides antecedent basis for the apertures that were already present in the original claim. Applicant has further amended the claim to recite a plurality of deformable members integrally formed at an end of one of the sliders, said deformable members being biased in the open position so as to return the internal slider to a closed position, upon removal of the dispensing connector.

With respect to fitment Claim 8, Applicant has amended the claim to recite that the external slider has integral biasing means located thereon. Applicant respectfully submits that this represents a substantial advantage over the prior art, in that the main embodiment of the 410 patent teaches a separate leaf spring element 223, preferably made of stainless steel (see Col. 4, Lines 25-27). This adds to the complexity of the valve and, accordingly, the cost of its manufacture.

Applicant notes the teachings of Figure 8 of the 410 patent and the relevant description at Col. 6, Lines 5-22. In this embodiment, the biasing means (a flexible diaphragm) is apparently a unitary structure with a post or probe 253. There is no teaching or suggestion of associating this integral biasing means with the external slider component. The result is a more complicated design that that of the present invention, with the necessity of a probe passing through a wall of the external slider and means to secure the diaphragm within the external slider on the interior side of this wall. Applicant further notes that the external slider does not appear to have a plurality of apertures (i.e. there is a single aperture) nor are there apertures proximate an end thereof. The single aperture does not align with ports on the internal slider to open the valve. As per the other embodiments of the 410 patent reference, failure of the flexible diaphragm results in failure of the valve to seal.

Further, Applicant respectfully submits that the 410 patent does not teach an internal slider having a series of ports therein as the Examiner asserts at page 3 of the July

07, 2006 Office Action. In the 410 patent reference numeral 321 pointed to by the Examiner, in fact, refers to a "slider annular ring" (see 410 patent, Col. 7, Line 29).

With respect to container Claim 10, Applicant has amended the claim to recite that the internal slider is biased towards a closed position from the open position by at least one integral biasing member located on the external slider. Dependent Claim 11 has been cancelled.

Applicant has further added an independent double slider valve Claim 12 that includes integral biasing means on an external slider.

Applicant also submits that the remarks above with respect to the different mechanism of the 761 patent apply equally with respect to the 410 patent.

Additional dependent claims have been added reciting that the fitment (Claims 1 and 8) of the invention have two, or a plurality of closed positions and further defining these positions. Briefly, the valve has a first closed position prior to insertion of the dispensing connector (see e.g., Figure 8 of the present application). After the valve is opened by engagement of the dispensing connector, the internal slider may return to a second closed position (see description at paragraph 45-47 of the present application.)

CONCLUSION

In view of the above remarks, Applicants respectfully submit that stated grounds of rejection have been properly traversed, accommodated, or rendered moot and that a complete response has been made to the Non-Final Office Action mailed on July 07, 2006.

Therefore, Applicants believe that the application stands in condition for allowance with withdrawal of all grounds of rejection. A Notice of Allowance is respectfully solicited. If the Examiner has questions regarding the application or the contents of this response, the Examiner is invited to contact the undersigned at the number provided below.

A three-month extension of time is hereby petitioned under 37 C.F.R. § 1.136(a). Should there be a fee due which is not accounted for, please charge such fee to Deposit Account No. 501447.

Respectfully Submitted,

BY:

Date: January 5, 2007

RAKESH H. MEHTA, ESQUIRE
ATTORNEY FOR APPLICANT
REGISTRATION NO.: 50,224
PHONE: 302-984-6089
FAX: 302-658-1192

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Application No: 10/812,121
Filing Date: March 29, 2004
Title: Double Slider Valve Fitment
First Named Inventor: James Johnson
Attorney Docket: 26090-034

- Transmittal
- Fee Transmittal
- Petition For Extension Of Time (3 Mos)
- Amendment and Response To The Non-Final Office Action Mailed July 07, 2006
- Receipt Card